

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

3 UNITED STATES OF AMERICA . CRIMINAL ACTION NO.
4 VS. . 4:08-CR-165-A
5 RANDALL WOLFORD December 15, 2008
6 . . 9:03 a.m.
.

7 VOLUME 1A
8 TRIAL TRANSCRIPT OF PROCEEDINGS
9 BEFORE THE HONORABLE JOHN H. McBRYDE
UNITED STATES DISTRICT JUDGE, and a jury.

APPEARANCES:

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25 Proceedings recorded by mechanical stenography, transcript
produced by computer-aided transcription.

1 P R O C E E D I N G S,

2 THE COURT: Good morning. We're here for a trial in
3 No. 4:08-CR-165-A, United States of America versus Randall
4 Wolford. Let's see, Mr. Lewis is here for the government, and
5 are you also participating?

6 MS. SALEEM: Yes, Your Honor.

7 THE COURT: Okay.

8 MR. LEWIS: Aisha Saleem, Judge.

9 THE COURT: And do y'all have a case agent?

10 MR. LEWIS: We do, sir. Would you like to have him
11 brought up right now, sir?

12 THE COURT: Well, just identify him.

13 MR. LEWIS: The case agent in this case, Judge, will
14 be Tom Milner, Witness No. 1 on the witness list, sir.

15 THE COURT: Let's see, who is he with?

16 MR. LEWIS: Sansom Park Police Department, Your Honor.

17 THE COURT: Okay. And let's see, the defendant,
18 Mr. Wolford, why doesn't he stand and state his name for the
19 record.

20 THE DEFENDANT: Randall Wolford.

21 THE COURT: Okay. And Mr. Burns is appearing on
22 behalf of him, Mr. Wolford. And let's see, what's your name?

23 MS. BOWERS: Randy Bowers.

24 THE COURT: Okay. And Randy Bowers.

25 Okay. Is the government ready?

1 MR. LEWIS: The government is ready, Your Honor.

2 THE COURT: Is the defendant ready?

3 MR. BURNS: Defense is ready, Your Honor.

4 THE COURT: Okay. I've had the charge reprinted
5 consistent with the second round of discussions we had by
6 telephone Friday, and I'm going to hand down four copies of it.
7 I believe it's exactly the way we left it.

8 Hold on just a minute, Marjorie. Let me -- And I'm also
9 giving you the verdict form.

10 If any of you have any questions about the charge, take it
11 up with me no later than the noon recess so we can resolve them.
12 I understand the defendant is asking for that First Amendment
13 instruction that I declined to give. But I believe -- the
14 indication I have was that the attorneys are satisfied with the
15 charge other than that.

16 Okay. Call forward, Mr. Lewis, the witnesses for the
17 government.

18 MR. LEWIS: Yes, sir. Have them brought up behind me,
19 sir?

20 THE COURT: Yes. Have them come on this side of the
21 rail.

22 Okay. Let me get you to identify yourself by name,
23 starting with the person on my right.

24 MR. ROBERTSON: Snow Robertson.

25 MR. LEWIS: Witness No. 7 on the list, Your Honor.

1 THE COURT: Okay. Next.

2 MS. PITTS: Lauren Pitts.

3 MR. LEWIS: Witness No. 5, Your Honor.

4 THE COURT: Okay. Next.

5 MR. PATTERSON: Jimmy Patterson.

6 MR. LEWIS: No. 6 on the witness list, sir.

7 THE COURT: Okay. Next.

8 MR. MILNER: Tom Milner.

9 MR. LEWIS: Witness No. 1, Your Honor.

10 THE COURT: Okay. And next.

11 MR. GIBSON: Kyle Gibson.

12 MR. LEWIS: Witness No. 3, sir.

13 THE COURT: Okay. Did I get them?

14 MR. LEWIS: Yes, sir.

15 THE COURT: So you won't be using Pokorney or Baylor?

16 MR. LEWIS: No, Your Honor.

17 THE COURT: Okay. Let me have the defendant's

18 witnesses come on this side of the rail.

19 MS. BOWERS: Ms. D'Ann --

20 THE COURT: The witnesses who have already identified
21 themselves, you can go back on the other side of the rail, but
22 don't leave the courtroom yet.

23 MR. BURNS: Your Honor, for purposes of the record, we
24 have Kyle Gibson listed as a potential witness that we may
25 recall to get into some other matters. He's already been sworn

1 for the other government, and I assume that that --

2 THE COURT: You don't need to have him sworn twice.

3 MR. BURNS: Thank you.

4 THE COURT: Oh, I didn't swear them. No wonder they
5 were standing up here waiting for me to do something.

6 Come on back around and we'll swear everybody at the same
7 time. It's the cold weather I'll attribute it to.

8 Hold on just a minute. Let me get theirs up here at the
9 same time.

10 Who is this person?

11 MS. BOWERS: D'Ann Steadham, Your Honor.

12 THE COURT: Okay. And does the defendant have any
13 other witnesses other than possibly those the government has
14 already called?

15 MR. BURNS: Potentially, Your Honor, Mr. Wolford
16 himself. But other than that, we have no additional witnesses.

17 THE COURT: Well, why don't we go ahead and swear him
18 since there's a possibility he'll be a witness. I take it
19 you're not planning to use Angie Baker.

20 MR. BURNS: That's correct, Your Honor.

21 THE COURT: Or Shannon Baylor.

22 MR. BURNS: That's correct, Your Honor.

23 THE COURT: Okay. The witnesses now in front of me,
24 the ones that identified themselves as government witnesses and
25 then Mr. Wolford and Ms. Steadham, all raise your right hands to

1 be sworn.

2 (The witnesses are sworn.)

3 THE COURT: Okay. And does anybody wish to invoke the
4 rule?

5 (No response.)

6 THE COURT: Apparently not.

7 Okay. Everybody be seated.

8 The witnesses can do whatever they want to as far as
9 leaving the courtroom and so on, so long as you have an
10 understanding with the attorney who called you as to when you're
11 expected to be called as a witness. In other words, you're now
12 subject to the jurisdiction of the Court having been sworn as a
13 witness, so you have to be available to come to the witness
14 stand when the attorney who arranged for you to be here wants
15 you to come to the witness stand. Other than that, you're at
16 liberty to go on the other side of the rail and leave the
17 courtroom, if you would like.

18 Okay. Is there anything else we need to deal with before
19 we get the jury in the courtroom?

20 MR. LEWIS: Judge, just from the government,
21 permission to have Case Agent Milner sit with us at the table.

22 THE COURT: He can sit at the table.

23 MR. LEWIS: Thank you, sir. The other item that the
24 government has is that yesterday I noticed two typos on the
25 government's exhibit list, and I've got an amended exhibit list

1 that I've already given over to the defense and wish to go ahead
2 and present that to the Court at this time.

3 THE COURT: Do you have any problem with the amended
4 list?

5 MR. BURNS: No, Your Honor.

6 THE COURT: Okay. We'll take the amended list.

7 MR. LEWIS: And, Judge, one other thing. I apologize.
8 I have provided the defense a copy of Government Exhibit 1. It
9 was my mistake in providing him with the alternative. He's seen
10 Exhibit 1 so I just switched it out and I would like to provide
11 you a copy with Government Exhibit 1.

12 THE COURT: Okay. That's fine.

13 MR. BURNS: We have no objection to the substitution,
14 Your Honor.

15 MR. LEWIS: Other than that, Judge, nothing else from
16 the government, sir.

17 MR. BURNS: Your Honor, the defense has one item, if
18 we could. The Court instructed us to -- or instructed the
19 defense be given a limiting instruction regarding Mr. Hansen, if
20 you admitted that into evidence. In addition, Your Honor, I'm
21 just trying to preserve any error I may have. I have a proposed
22 Government's Exhibit 43 wherein we take out all of Mr. Hansen's
23 name and statement, except at the top. And, also, Your Honor, a
24 proposed charge. My computer went down. This is kind of off
25 the top of my head, but I've heard it a number of times and I

1 believe it's a sufficient charge, a 404(b) charge, when that
2 comes in, if it does. And, also, I didn't know whether the
3 Court would admit both the tape and the transcript, so I didn't
4 put it on.

5 THE COURT: Well, I'm not sure what I'm going to do on
6 that yet. Let's talk about that a little bit.

7 How are you going to prove that up? By somebody who
8 participated?

9 MR. LEWIS: Judge, one of the witnesses that was
10 working -- there's a police officer who was working off duty.
11 He was upstairs monitoring a situation, and it was his job, if
12 anything bad happened, he was to, you know, ensure the safety of
13 the people working during that sting operation. He viewed
14 everything as it happened in real time and would be able to
15 testify that, in fact, there's been no edits, changes, or
16 anything else to that tape or to the transcript that matches up
17 to that tape.

18 THE COURT: Okay.

19 MR. LEWIS: And -- Oh, I'm sorry.

20 THE COURT: Let me see your proposed instruction. You
21 have one to use if only the transcript is admitted, and the
22 other to use if both the tape and the transcript?

23 MR. BURNS: No, Your Honor. I just left it exhibit
24 number, so you can put in 42 and 43.

25 THE COURT: Let me see your proposed instruction.

1 MR. BURNS: And then I don't know why -- what the
2 Court's going to be admitting it for. And, also, I have a
3 proposed transcript where we take out everything about
4 Mr. Hansen.

5 MR. LEWIS: Your Honor, I know you haven't had a
6 chance to review the transcript. I was just going to hand it to
7 you, but the government would object to that transcript,
8 striking every -- and blocking out every word that the
9 investigative reporter asked that night. It's not going to give
10 any context to what the defendant is saying.

11 THE COURT: Mr. Burns, are there particular words that
12 are of concern to you?

13 MR. BURNS: Yes, Your Honor. Without --

14 THE COURT: Let me get the transcript, and you tell me
15 what particular words are of concern to you. What exhibit
16 number is it?

17 MR. BURNS: It's 43, Your Honor.

18 THE COURT: Okay. I'm looking at 43 now. Let me pull
19 it out of the sleeve.

20 (Brief pause.)

21 THE COURT: These sleeves are more trouble than
22 they're worth. I wish y'all would just put holes on the
23 documents themselves and fit it in the notebook that way.

24 MR. LEWIS: I'll do that next time, Judge. I
25 apologize for that.

1 THE COURT: And be sure they have page numbers, as
2 this does.

3 Okay. I'm looking at Exhibit 43, and tell me which words
4 are causing you a problem.

5 MR. BURNS: Your Honor, specifically Mr. Hansen at one
6 point, and I'm trying to find it, makes a statement that, you
7 know, everybody that we've hit with this says they're innocent.
8 On page 12 -- I mean, that's the biggest thing. I don't want
9 any of it. I can't cross-examine it, but virtually every
10 man who ends up in this situation tells me that they're
11 innocent.

12 THE COURT: Well, I want to deal with all of the parts
13 of it that you consider to be inappropriately inflammatory.
14 Page 12?

15 MR. BURNS: Yes, Your Honor. And --

16 THE COURT: Okay. Go ahead. What else?

17 MR. BURNS: Your Honor, on page 4, as well, "Hansen:
18 The problem is that the State of Texas isn't okay with it. It's
19 against the law." And that's just talk about sex. And I don't
20 think talking --

21 THE COURT: Well, if we take that out, then we'd have
22 to take out his response.

23 MR. BURNS: Yes, Your Honor.

24 THE COURT: And then the next one, "To solicit
25 somebody who is underage," and then his response of, "I wasn't

1 aware of that."

2 MR. BURNS: Yes, sir.

3 THE COURT: And then. . .

4 MR. BURNS: And I'm not sure that's even a correct
5 statement, I don't think. But soliciting for sexual intercourse
6 could be considered a criminal offense.

7 THE COURT: I'm inclined to think that should come
8 out, starting with, "The problem is that the State of Texas
9 isn't okay with it. It's against the law," down through his
10 second response, "I wasn't aware of that." In other words, the
11 two statements and the two responses.

12 MR. LEWIS: On page 4, Your Honor?

13 THE COURT: Yes. I think those should be marked out
14 or blocked out or whited out or done something.

15 The first one you mentioned on page 12, let me look at it
16 again.

17 (Brief pause.)

18 THE COURT: On page 11, starting with, "Do you see why
19 that's hard for me?" It's the second statement by Hansen from
20 the bottom of the page down through Wolford's response on page
21 12, "Well, I can assure you that's what I've been." I don't
22 think that needs to be read to the jury for them to understand
23 the purpose of the evidence.

24 Okay. Does that take care of the ones you have a serious
25 concern with?

1 MR. BURNS: Well, I don't want to waive my *Crawford*
2 objection, but, yes, that's the main thing.

3 THE COURT: Well, you're not going to waive anything,
4 but I want to take out the things that you think are
5 inflammatory.

6 MR. BURNS: Those are that, and then the very last
7 statement that Mr. Hansen makes just on the last page. It says,
8 "Well, there's a couple of things you got to know, that I am
9 Chris Hansen with Dateline NBC, and we're doing a story on
10 adults who try to meet kids online for sex. Now, if there's
11 anything else you would like to say, Randy, we would like to
12 hear it. If not," and then it just sort of stops.

13 THE COURT: Okay. I don't know that that's essential
14 to the point. If there is someplace else -- if there is some
15 other evidence that explains why this is happening, I think the
16 jury is entitled to know why it's happening. Is there some
17 other way that that will be explained? Will the officer explain
18 that?

19 MR. LEWIS: The officer will explain in the beginning
20 what they were doing there that night, sir.

21 THE COURT: Okay. Well, then, I don't know that what
22 Mr. Hansen says at the end is necessary. I'm going to order
23 that it be whited out on the assumption that there's another way
24 to explain to the jury why they're doing it.

25 Does that take care of it?

1 MR. BURNS: Yes, sir, other than the general
2 confrontation.

3 THE COURT: You just want to cross-examine him.

4 MR. BURNS: Yes, sir. I think I can possibly get some
5 good stuff out of him.

6 THE COURT: Well, I'm sure he would be a very
7 receptive witness.

8 MR. BURNS: And, Your Honor, there is one other item
9 that we've talked about, and we've agreed that on page 1 after
10 Murphy, Texas, that --

11 MR. LEWIS: It's on the top of the page, sir.

12 MR. BURNS: At the very top of the page. "And met who
13 he thought was a 13-year-old girl." We're objecting to that,
14 Your Honor. That's kind of the whole issue as to whether he
15 thought she was 13 or not.

16 THE COURT: Well, that obviously is not going to be on
17 the tape.

18 MR. LEWIS: No, sir.

19 THE COURT: So that probably ought to be taken out.

20 MR. LEWIS: I've already agreed, sir, to take out the
21 portion of the sentence that reads, "and met with who he thought
22 was a 13-year-old girl." If the Court wishes me to take out the
23 entire paragraph?

24 THE COURT: I don't know of any reason to have any of
25 it in there as long as the officer can explain what was going on

1 and where it was happening.

2 MR. LEWIS: Not a problem, sir.

3 THE COURT: And this instruction you want me to give,
4 do you want me to give it at the time the tape is played?

5 MR. BURNS: Yes, Your Honor, assuming that the Court
6 lets in the tape or the transcript, either one.

7 THE COURT: I assume there's no question as to the
8 accuracy of the transcript, is there?

9 MR. BURNS: We've gone through it and agreed on the
10 accuracy of the wording.

11 THE COURT: Okay. Well, it's not being submitted to
12 the jury just to help them. It's going to be primary evidence
13 of what it says.

14 MR. BURNS: Well, this is the extraneous offense.

15 THE COURT: I know, but it's going to be evidence of
16 that extraneous offense. So I'm not going to give the
17 instruction that it's just here to help them. The transcript is
18 evidence of what was said, just as any other transcript is, the
19 way I handle recordings. But in this case they're going to play
20 it. Plus, they're also going to have the transcript as
21 evidence. And as I understand it, there's been agreement that
22 the transcript is accurate.

23 MR. BURNS: Yes, Your Honor. And the problem is, of
24 course, if you play the tape, then the parts that are being
25 taken out are going to be played before the jury.

1 THE COURT: Well, you're going to have to handle that
2 somehow. You're going to have to take that out of the tape.

3 MR. LEWIS: I understand, Judge, and if I can make
4 that happen, I will. And if not --

5 THE COURT: Well, why don't we just not play the tape.
6 We'll just do the transcript.

7 MR. LEWIS: I understand, sir.

8 THE COURT: Okay.

9 MR. BURNS: I don't want to mislead the Court. What
10 I'm asking for, Your Honor, is that at the time that this comes
11 in, that we get the standard 404(b) instruction that we're
12 entitled to as to why that's being admitted before the jury.

13 THE COURT: In other words, you want me to give the
14 instruction that's in the charge, in the Court's charge, that
15 y'all have agreed on?

16 MR. BURNS: No, Your Honor. There's a different one.
17 In a 404(b), the Court tells the jury why that particular
18 evidence --

19 THE COURT: You have heard evidence of acts of the
20 defendant which may be similar to those charges in the
21 indictment. Is that what you want me to tell them?

22 MR. BURNS: Yes, Your Honor.

23 THE COURT: That's what I meant, the same one we've
24 got in the charge. Look at your agreed charge on page 12, top
25 of page 12. You want me to give the charge that's on that page.

1 MR. BURNS: Yes, Your Honor, except --

2 THE COURT: Going through the two lines at the top of
3 page 13.

4 MR. BURNS: Yes, Your Honor. Except I'm asking the
5 Court to tell the jury what that very limited purpose is.

6 THE COURT: Well, that's what it goes on to say, the
7 bottom half of page 12. Those are the limited purposes. Is
8 that what you want me to tell the jury when the tape is entered
9 into evidence? Not the tape, the transcript entered into
10 evidence?

11 MR. BURNS: Yes, Your Honor.

12 THE COURT: Okay. Is there anything else we need to
13 deal with?

14 MR. LEWIS: Not from the government, sir.

15 MR. BURNS: No, Your Honor. I'm assuming that the
16 Court is not going to omit all the statements -- all the
17 statements of Hansen.

18 THE COURT: Well, I've already indicated what I plan
19 to do. Here's your copy back of the version with all the
20 statements marked through.

21 Okay. Is there anything else we need to deal with before
22 we get the jury in the courtroom?

23 MR. LEWIS: Judge, I will attempt to have those
24 portions of the videotape edited out, but if not, the government
25 won't offer them. We'll just offer the transcript, sir.

1 THE COURT: Well, that's all we're going to offer, is
2 the transcript. We've already made that decision.

3 MR. LEWIS: Oh, yes, sir. Sorry, sir. Thank you.

4 THE COURT: But white out the places in the transcript
5 instead of blacking them out.

6 MR. LEWIS: Yes, sir.

7 THE COURT: And I think I've already informed you that
8 I'm not going to permit use of the photographs involving the
9 infants.

10 MR. LEWIS: I know that during the conference call on
11 Friday, the Court did mention that, sir, and just for
12 clarification, Your Honor, I believe the Court is talking about
13 Exhibits 39 and -- 39; is that correct?

14 THE COURT: Let me get the numbers.

15 (Brief pause.)

16 THE COURT: I've got 39 and 40.

17 MR. LEWIS: Thirty-nine and 40, sir, yes, sir.

18 THE COURT: As I understand it, those are things that
19 were found in his computer?

20 MR. LEWIS: That's correct, sir.

21 THE COURT: I don't know that they add anything to
22 this particular case.

23 MR. LEWIS: Yes, Your Honor. And I will not ask about
24 Exhibit 39 and 40, Your Honor.

25 THE COURT: Okay.

1 MR. BURNS: Your Honor, while we're addressing that,
2 the government's exhibits include young children, infants -- or
3 not infants necessarily, little bitty kids on Exhibit 37, 38,
4 39, 40, and 41, Your Honor. And, again, these are small
5 children, and this is extraneous collateral. Any probative
6 value it may have is fairly outweighed by the --

7 THE COURT: What numbers did you just call off?

8 MR. BURNS: Thirty-seven through 41, I believe it is.
9 Let me make sure. Yes, 37 through 41.

10 MR. LEWIS: Government has agreed not to get into the
11 aspects of 39 and 40, Judge.

12 THE COURT: I don't see 41. Well, I found 41. That
13 is not a photograph that was taken -- I really can't tell what
14 it is. Oh, it's a child. Okay.

15 MR. BURNS: Yes, sir.

16 THE COURT: I don't see any reason to use any of those
17 in this case: 37, 38, 39, 40, and 41. Don't use any of those
18 unless something happens during the trial that they become
19 relevant.

20 MR. LEWIS: Yes, sir.

21 THE COURT: And I'm not saying they're not relevant.
22 They are relevant. My concern is that it would be -- the
23 prejudice would outweigh the probative value of those.

24 MR. LEWIS: Judge, I will approach the bench before I
25 attempt to try to talk about those items, sir.

1 THE COURT: Okay. Now, let's address another concern
2 I had, and that was whether there's any need to display any of
3 the photographs to the jury as opposed to having somebody
4 describe them. Do you think anything is really gained by
5 showing any of those photographs to the jury, Mr. Lewis?

6 MR. LEWIS: Judge, I do plan on entering into evidence
7 and showing the jury -- well, not showing them, not publishing
8 it to the jury, but having it available for them during the
9 deliberation. I believe the Court is referring to Government's
10 Exhibits 10 --

11 THE COURT: What do you think the jury gains from
12 seeing those photographs as opposed to hearing a word
13 description of what they show?

14 MR. LEWIS: I understand the Court's question. I
15 apologize, sir. Judge, a picture is worth a thousand words.
16 And since this individual, Mr. Wolford, was trying to entice a
17 13 -- or who he believed to be a 13-year-old --

18 THE COURT: Well, can't somebody describe what the
19 photographs show?

20 MR. LEWIS: They can, sir. But it's the government's
21 position that that won't do it justice.

22 THE COURT: Okay. Well, I indicated over the phone
23 Friday that if the government felt a genuine need for the jury
24 to see those that I'd let the government offer them into
25 evidence. So that's the way we'll leave that.

1 Okay. We'll get the jury panel in, and y'all can move your
2 chairs on this side of the table.

3 MR. LEWIS: Yes, Your Honor.

4 (Court in recess, 9:31 a.m. until 9:50 a.m.)

5 THE COURT: Good morning. My name is John McBryde.
6 I'm one of the district judges here. We're here this morning to
7 select a jury to participate in the trial of a criminal case.
8 It's a case that's going to trial on the basis of an indictment
9 returned by the grand jury. The indictment is not evidence of
10 anything. That's simply a way that a case such as this goes to
11 trial. But I am, in a few minutes, going to tell you what the
12 indictment charges because that will help you participate in
13 this proceeding, to know what the case is about.

14 This is what we refer to as a voir dire examination of a
15 jury panel. It has two purposes. You've already been
16 determined to be qualified to serve as a juror in the federal
17 court. One of the purposes of what we're doing now is to
18 determine if there is a reason why you should not serve on the
19 jury in this particular case because of something in your
20 background, some knowledge you have, such as perhaps knowing
21 somebody involved in the litigation in the case.

22 The other purpose is to acquire some additional information
23 about you. Each side has the right, somewhat arbitrarily, to
24 strike from the list with your names on it a certain number of
25 names. That's what we call peremptory challenges. So we want

1 to give the lawyers a little more information than they now have
2 in order to more intelligently exercise those challenges. So
3 we'll be asking some questions.

4 With the possible exception of one or two questions, I
5 don't think any question will be asked that would cause you to
6 hesitate to answer the question in the hearing of everybody in
7 the courtroom. In other words, nothing would be asked that
8 would cause you to give an answer that you'd be embarrassed to
9 give publicly with a possible exception of one or two questions.
10 And when we get there, to that question or questions, I'll tell
11 you we're there. And when the question is asked, if you have a
12 response to it and you would prefer to come up here with the
13 microphone turned off and tell me what the response is, of
14 course, an attorney for each side would also have to be up here,
15 I'll permit that. Unless it's something that would be unduly
16 embarrassing, of course, it would be better if you went ahead
17 and answered it from out there.

18 Since we will be asking questions, the law contemplates
19 that you will be under oath when you answer these questions, so
20 at this time I'm going to ask all of you to stand and raise your
21 right hands to accept an oath to participate in this proceeding.

22 (The jury panel is sworn.)

23 THE COURT: Okay. Be seated.

24 This case is being brought to trial on the basis of an
25 indictment charging that the defendant committed a federal

1 crime. The number of the case is 4:08-CR-165-A. It's United
2 States of America versus Randall Wolford, W-O-L-F-O-R-D. That's
3 the name of the defendant. In a very general way -- And bear in
4 mind what I've already said. The indictment is not evidence.
5 This is simply an accusation made by the government against the
6 defendant, and the government has the burden to prove their
7 accusation beyond a reasonable doubt.

8 But the government alleges that between March 18, 2008, and
9 May 1, 2008, here in the Fort Worth Division, the defendant,
10 Randall Wolford, used a facility or means of interstate
11 commerce, that is, the Internet, which is a means of interstate
12 commerce, to attempt to persuade and induce and entice a person
13 he believed to be 13 years of age to engage in sexual activity.
14 And the indictment alleges that that activity he was seeking to
15 -- that he was enticing that person he thought to be 18 (sic)
16 years of age to engage in would be a criminal act -- or criminal
17 conduct under the laws of the State of Texas. And I'm not going
18 to go into what that Texas law is now. It's sufficient to say
19 that the government is alleging what he was attempting to do,
20 what the defendant was attempting to do over the Internet, was
21 to entice a person he believed to be 13 years of age to engage
22 in activity that would be a crime on his part, if he engaged in
23 it, in the State of Texas.

24 And let me add that the evidence is going to show -- I
25 anticipate that the government is going to attempt to show their

1 theory of the case is, the government's theory of the case is,
2 that an undercover law enforcement person was pretending to be a
3 person under 13 years of age, pretending be a girl under 13
4 years of age, and was engaging in the Internet communications
5 with the defendant to cause him to go to a certain place and
6 that he was arrested when he did that. I think that will be the
7 government's contention in the case.

8 First of all, is there anyone on the jury panel who has any
9 knowledge of the defendant, Mr. Wolford? If so, raise your
10 hand.

11 (No response.)

12 THE COURT: I don't see any hands on that.

13 Okay. Is there anyone who has any knowledge about this
14 case, by any chance? If so, raise your hand.

15 (No response.)

16 THE COURT: I don't see any hands on that.

17 Okay. I'm going to have the government attorney, lead
18 attorney, introduce himself and his co-counsel and the case
19 agent at this time.

20 MR. LEWIS: Thank you, Your Honor. My name is Alex
21 Lewis. Together with me is Aisha Saleem, co-counsel in the
22 case, and the case agent, Sergeant Tom Milner.

23 THE COURT: Is there anyone on the jury panel -- You
24 can sit down.

25 Is there anyone on the jury panel who knows Mr. Lewis or

1 Ms. Saleem or Mr. Miller? Any of you have any knowledge
2 whatsoever of any of those persons? If so, raise your hand.
3 It's Milner, not Miller.

4 MR. LEWIS: That's correct, sir.

5 (No response.)

6 THE COURT: Okay. I don't see any hands on that.

7 Now, Mr. Lewis and Ms. Saleem are Assistant United States
8 Attorneys in the Office of the United States Attorney for the
9 Northern District of Texas. Is there anyone on the jury panel
10 who personally or through a family member or a close friend has
11 ever had any connection with the Office of the United States
12 Attorney? If so, raise your hand.

13 (No response.)

14 THE COURT: I don't see any hands on that.

15 Mr. Milner is a police officer with the Sansom Park Police
16 Department. Is there anyone on the jury panel who has any
17 connection with the Samson Park Police Department? If so, raise
18 your hand, either personally or through a family member or a
19 close friend. If so, raise your hand.

20 (No response.)

21 THE COURT: I don't see any hands on that.

22 Okay. Mr. Lewis, identify each of the witnesses the
23 government plans to call and give just a very brief description
24 of who they work for, something about them to help the jury
25 identify the person if the jury happens to know the person.

1 MR. LEWIS: Yes, sir. Kyle Gibson, a computer
2 forensic expert, working with the Tarrant County Sheriff's
3 Department. Lauren Pitts, now working as a dispatch person for
4 the North Richland Hills Police Department, but during the time
5 of the offense worked at the Samson Park Police Department. Jim
6 Patterson, now working with the Dallas County Constable's
7 Office. And Sergeant Snow Robertson, working with the Murphy,
8 Texas, Police Department.

9 THE COURT: Okay. You can be seated. Is there anyone
10 on the jury panel who knows anything about, has any knowledge
11 of, any of the persons who have been identified as prospective
12 witnesses for the government? If so, raise your hand.

13 (No response.)

14 THE COURT: I don't see any hands on that.

15 At this time I'll ask the attorney for the defendant to
16 stand and identify himself -- the lead attorney, identify
17 himself, his co-counsel, and his client.

18 MR. BURNS: Thank you, Your Honor. My name is Danny
19 Burns. Ladies and gentlemen, I have an office here in Fort
20 Worth. I am assisted on this case by Ms. Randall Bowers -- or
21 Randy Bowers, and she also has an office here in Fort Worth,
22 Texas.

23 THE COURT: And you want to introduce your client?

24 MR. BURNS: And this is Mr. Randall Wolford. He works
25 in the oil fields -- in the oil field business usually.

1 THE COURT: You can sit down.

2 Does anybody on the jury panel have any knowledge
3 whatsoever of Mr. Burns, Ms. Bowers, or Mr. Wolford? I think
4 I've asked about Mr. Wolford before. I'll ask again: Does
5 anyone on the jury panel have any knowledge of any of those
6 persons? If so, raise your hand.

7 (Venireperson No. 37 raises hand.)

8 THE COURT: Okay. That's Mr. Oloughlin.

9 VENIREPERSON OLOUGHLIN: Yes, Your Honor. I know
10 Ms. Bowers, just on a personal level, so I don't know if that
11 makes any difference or not.

12 THE COURT: What is the nature of your
13 acquaintanceship with her?

14 VENIREPERSON OLOUGHLIN: Personal level. I've known
15 her for several years. Just through friends and, you know.

16 THE COURT: Have y'all been at social events together
17 and that sort of thing?

18 VENIREPERSON OLOUGHLIN: Yes, yes.

19 THE COURT: And how long has that relationship
20 existed?

21 VENIREPERSON OLOUGHLIN: Oh, five years, ten years.
22 Five or ten years, something like that.

23 THE COURT: Okay. Is there anything about that
24 relationship that would cause you any embarrassment if you had
25 to render a verdict against her client?

1 VENIREPERSON OLOUGHLIN: (Pause.)

2 THE COURT: Would it create --

3 VENIREPERSON OLOUGHLIN: Well, no, I don't think so,
4 but there is the --

5 THE COURT: Why don't you come up here a minute, and
6 let me ask you some more questions up here.

7 VENIREPERSON OLOUGHLIN: Thank you.

8 THE COURT: Why don't one of the attorneys for each
9 side come up here.

10 MR. BURNS: Your Honor, do I understand it's Ms.
11 Bowers and myself?

12 THE COURT: One attorney for each side, and y'all pick
13 whichever one it is. He may want to say something about
14 Ms. Bowers, so why don't you come up here, Mr. Burns.

15 MR. BURNS: Never mind. We'll switch out.

16 (Ms. Bowers and Venireperson Oloughlin confer out of the
17 hearing of the Court.)

18 THE COURT: I think Ms. Bowers is carrying on a
19 personal communication now with the juror, so he's excused as a
20 juror. He's excused from the panel.

21 You're excused from the panel.

22 That was highly inappropriate, Ms. Bowers.

23 VENIREPERSON OLOUGHLIN: I'm sorry.

24 THE COURT: You're excused from the panel. You can
25 leave the courtroom.

1 Is there anyone else on the jury panel who has any
2 knowledge whatsoever -- You're excused from the panel. You can
3 leave the courtroom.

4 VENIREPERSON OLOUGHLIN: All right. Thank you, Judge.

5 THE COURT: You will have to call that Code-A-Phone
6 number at the time you're supposed to call it. I don't recall
7 what time it is, the number that you have to call --

8 VENIREPERSON OLOUGHLIN: Yes, Your Honor.

9 THE COURT: -- you'll have to continue to call that
10 number.

11 VENIREPERSON OLOUGHLIN: Yes, sir.

12 THE COURT: Okay.

13 VENIREPERSON OLOUGHLIN: Thank you.

14 (Mr. Oroughlin leaves courtroom.)

15 THE COURT: Is there anyone else on the jury panel who
16 has any knowledge whatsoever of either of the attorneys for the
17 defendant, Danny Burns or Randy Bowers, or the defendant
18 himself? If so, raise your hand.

19 (No response.)

20 THE COURT: Okay. I don't see any hands on that.

21 Okay. Identify, if you would, Mr. Burns, the witnesses
22 that the government has already identified, the name of the
23 witness or witnesses your client might call.

24 MR. BURNS: Thank you. In addition to the
25 government's witnesses, we anticipate we will call Ms. D'Ann

1 Steadham.

2 THE COURT: Where does she live?

3 MR. BURNS: She lives in Houston, Texas, Your Honor.

4 She is a procurement agent --

5 THE COURT: Okay.

6 MR. BURNS: -- for Weatherford International.

7 THE COURT: Okay. Anybody else?

8 MR. BURNS: Possibly Mr. Wolford, Your Honor.

9 THE COURT: Okay. Is there anyone on the jury panel
10 who has any knowledge whatsoever of D'Ann Steadham?

11 You can sit down.

12 MR. BURNS: Yes, sir.

13 THE COURT: If so, raise your hand.

14 (No response.)

15 THE COURT: I don't see any hands on that.

16 Now, the next question I'm going to ask, we have a number
17 of jurors normally who raise their hands, so I'm going to take
18 it a row at a time. The question is: Have you or any member of
19 your family or any close friend ever been employed by a law
20 enforcement agency? And like I say, we normally have a number
21 of people who have "yes" answers to that question, so I'm going
22 to ask the question again and have everyone on the first row who
23 has a "yes" answer to the question to raise your hand.

24 (Several hands raised.)

25 THE COURT: This is directed to everybody on the first

1 row: Have you or any member of your family or any close friend
2 ever been employed by a law enforcement agency?

3 (Several hands raised.)

4 THE COURT: Okay. Ms. Sheen has raised her hand.
5 Mr. Lemley. Anyone else? Ms. Allen and Ms. Green. Does anyone
6 else on the first row have a "yes" answer to the question asking
7 about employment by a law enforcement agency? That is, either
8 you or any member of your family or any close friend. If anyone
9 has a "yes" answer on the first row who hasn't already raised
10 your hand and been identified, raise your hand now.

11 (No response.)

12 THE COURT: Okay. I don't see any further hands on
13 the first row.

14 Okay. Let's go to the second row. Is there anyone on the
15 second row who has a "yes" answer to the question asking if you
16 or any member of your family or any close friend has ever been
17 employed by a law enforcement agency? Anyone on the second row
18 have a "yes" answer to that question?

19 (Several hands raised.)

20 THE COURT: Okay. Ms. Hale, Ms. Allmon.

21 VENIREPERSON ALLMON: Yes.

22 THE COURT: Ms. Hunt, Ms. Russell, Mr. Garza,
23 Ms. Hall, and Ms. -- Is it Giorandino?

24 VENIREPERSON GIORANDINO: Giorandino.

25 THE COURT: Okay. I'll try to remember how to

1 pronounce that.

2 Okay. Have I called the name of everyone on the second row
3 who has a "yes" answer to the question asking have you or any
4 member of your family or any close friend ever been employed by
5 a law enforcement agency? If I've overlooked anyone, raise your
6 hand now.

7 (No response.)

8 THE COURT: I don't see any further hands.

9 Okay. I'm going to the third row now. Is there anyone on
10 the third row who has a "yes" answer to the question asking
11 whether you, any member of your family, or any close friend has
12 even been employed by a law enforcement agency? If so, raise
13 your hand.

14 (Several hands raised.)

15 THE COURT: Okay. That's Ms. Gonzalez, Mr. Miller,
16 Ms. Roden, Mr. Costello, Ms. Atchley, Mr. Gilchrist,
17 Mr. Borrego, and Ms. Taylor.

18 Is there anyone else on the third row who has a "yes"
19 answer to the question asking about employment by a law
20 enforcement agency? If so, raise your hand now, if I've
21 overlooked anyone.

22 (No response.)

23 THE COURT: Okay. Anyone on the back row have a "yes"
24 answer to the question asking about employment by a law
25 enforcement agency?

1 (Venireperson Nos. 38 and 40 raise hands.)

2 THE COURT: Ms. Dancer and Ms. Reyes.

3 Okay. I'm going to go back now and ask each of you who
4 raised your hand in reference to the question about employment
5 by a law enforcement agency to stand and tell me why you raised
6 your hand.

7 Mr. Lemley.

8 VENIREPERSON LEMLEY: Yes, Your Honor. My former
9 father-in-law, who is now deceased, was a U.S. Deputy Marshal.
10 And my stepfather-in-law is a retired highway patrolman from
11 Oklahoma.

12 THE COURT: Okay. Thank you.

13 Ms. Hale.

14 VENIREPERSON HALE: My cousin is a retired state
15 police officer in Connecticut, and my brother-in-law was a
16 lawyer with the Combined Law Enforcement Agency of Texas.

17 THE COURT: Okay. Thank you. Hand it down next to
18 you.

19 Ms. Giorandino.

20 VENIREPERSON GIORANDINO: My cousin is a police
21 officer in New York. My brother-in-law is an attorney.

22 THE COURT: Okay. Thank you. Hand it to Mr. Johnson.
23 He's next to you.

24 VENIREPERSON JOHNSON: I didn't raise my hand.

25 THE COURT: Oh, I'm sorry. I had Mr. Johnson down.

1 VENIREPERSON ALLMON: I'm not sure about this one. I
2 think it was my nephew's wife worked at a county jail, but I
3 don't know if she was in law enforcement or not. I couldn't
4 remember, so I thought I'd better raise my hand.

5 THE COURT: Okay. Well, thank you. Hand it back to
6 Ms. Gonzalez.

7 VENIREPERSON GONZALEZ: Yes. I've got a good friend
8 that has worked --

9 THE COURT: I can't -- You're very soft-spoken. I
10 think maybe the microphone went out on you.

11 VENIREPERSON GONZALEZ: Yeah. I've got a good friend
12 of 25 years, that he works for the Department of Homeland
13 Security.

14 THE COURT: Okay. Thank you.

15 And then Mr. Miller.

16 VENIREPERSON MILLER: I have two great uncles that are
17 retired highway patrolmen.

18 THE COURT: Okay. Thank you.

19 Ms. Roden.

20 VENIREPERSON RODEN: My cousin works for dispatch in
21 the Sheriff's Department.

22 THE COURT: Okay.

23 Back to Ms. Dancer.

24 VENIREPERSON DANCER: My nephew is a police officer in
25 the City of Kennedale.

1 THE COURT: Thank you.

2 And then Ms. -- Do you go by Lopez-Reyes?

3 VENIREPERSON LOPEZ-REYES: Yes.

4 THE COURT: Okay. Ms. Lopez-Reyes.

5 VENIREPERSON LOPEZ-REYES: My brother is a U.S.
6 customs border patrol.

7 THE COURT: Let's try it over again. That microphone
8 is new and we're --

9 VENIREPERSON LOPEZ-REYES: My brother works for U.S.
10 Customs. He's an officer.

11 THE COURT: Okay. Thank you.

12 Okay. And let's go over to Mr. Costello.

13 VENIREPERSON COSTELLO: I have several friends that
14 are investigators for the district court, and a good friend of
15 mine is currently chief of police for Mansfield School District.

16 THE COURT: Okay. Thank you.

17 Let's go up to Ms. Hunt.

18 VENIREPERSON HUNT: I work for the U.S. Postal
19 Inspection Service for 26 years, the Inspector In Charge's
20 secretary. I'm a personal and good friend of all of the postal
21 inspectors there, and I was married to one for 20 years.

22 THE COURT: Okay. Thank you.

23 Okay. Ms. Russell.

24 VENIREPERSON RUSSELL: I have two cousins. One is a
25 police officer and one is a constable.

1 THE COURT: Okay. Thank you.

2 And then Mr. Garza.

3 VENIREPERSON GARZA: My ex-brother-in-law used to be
4 with the police department of Mineral Wells.

5 THE COURT: Okay. Thank you. Hand it back to
6 Ms. Atchley.

7 VENIREPERSON ATCHLEY: My brother was a police officer
8 in Fort Worth. He's retired.

9 THE COURT: Thank you.

10 And then Mr. Gilchrist.

11 VENIREPERSON GILCHRIST: My cousin is an Oklahoma City
12 police officer, and I have -- a good friend of mine is the
13 ex-chief of police for Weatherford. He's now the city manager,
14 and I have a lot of friends in law enforcement.

15 THE COURT: Okay. Thank you.

16 Okay. Mr. Borrego. He's at the end there.

17 VENIREPERSON BORREGO: My cousin is the current
18 assistant chief in El Paso, Texas, and I served on the Citizens
19 Police Academy in Oklahoma City.

20 THE COURT: Okay. Thank you.

21 And Ms. Taylor.

22 VENIREPERSON TAYLOR: My boss's daughter-in-law that
23 worked for me is now employed with the Tarrant County Sheriff's
24 Department Crime Scene.

25 THE COURT: Okay. Thank you.

1 Let's see, Jan Hall?

2 VENIREPERSON HALL: Yes, sir. My neighbor, we're not
3 that close, but he works for the Sheriff's Department and just
4 several acquaintances through where I work with the Westworth
5 Police Department.

6 THE COURT: Okay. Thank you.

7 Okay. Ms. Green, Gretchen Green.

8 VENIREPERSON GREEN: My brother-in-law is a border
9 patrol agent.

10 THE COURT: Okay. Thank you.

11 Shirley Allen.

12 VENIREPERSON ALLEN: My nephew used to manage the jail
13 at Eastland, Texas.

14 THE COURT: Okay. Thank you.

15 And then Ms. Sheen.

16 VENIREPERSON SHEEN: I have a cousin who is a retired
17 policeman, and my nephew is currently a criminal investigator
18 for the U.S. government.

19 THE COURT: Okay. Thank you.

20 I believe I've called on everyone who raised your hand in
21 response to the question asking about employment by a law
22 enforcement agency. The question was: Have you or any member
23 of your family or any close friend ever been employed by a law
24 enforcement agency?

25 Did I miss anyone? If I failed to call on anyone who has a

1 "yes" answer to that question, raise your hand now.

2 (No response.)

3 THE COURT: Okay. I don't see any more hands.

4 Okay. The next question is the one I indicated some of you
5 might want to come up here and give the answer with the
6 microphone turned off. Unless it's something that would
7 embarrass you, it would be better if you just went ahead and did
8 it out there. But I understand that sometimes this question can
9 cause you to give an answer that legitimately would make you
10 want to come up here.

11 Has any member of the panel at any time been involved in a
12 criminal matter that concerns yourself, any member of your
13 family, or any close friend, either as a defendant, a witness,
14 or a victim? And I might add that that includes any kind of
15 criminal matter that would be of a sexual nature, such as being
16 a victim of a sex offense, or somehow or other being a witness
17 or otherwise involved in that kind of offense.

18 But the question is broader than that. It asks has any
19 member of the panel at any time ever been involved in any
20 criminal matter of any kind that concerns yourself, any member
21 of your family, or a close friend, either as a defendant, a
22 witness, or a victim? And I'm going to ask those who have a
23 "yes" answer to the question, hold your hands up and then I'll
24 identify you and then after I've done that, I'm going to go
25 back, as I did the last time, and ask each person who held up

1 your hand to tell me why you held up your hand. And at that
2 point in time, if you want to come up here to give the answer
3 out of the hearing of the others, indicate it and I'll permit
4 you to do that.

5 So I'll ask generally, and this applies to all of the rows.
6 I'm not doing this row by row. Has any member of the panel at
7 any time been involved in any criminal matter that concerns
8 yourself, any member of your family, or a close friend, either
9 as a defendant, a witness, or a victim?

10 Now, is there anyone who has a "yes" answer to that
11 question. We'll first find that out.

12 (Several hands raised.)

13 THE COURT: That's Ms. Sheen, Ms. Murray, Ms. Askins,
14 Ms. Allen, Ms. Giorandino. I'm sorry. I'm having a hard time
15 with that.

16 You can put your hands down once I call your name. Once I
17 call your name, you can put your hand down.

18 Ms. Hunt, Mr. Garza, Mr. Almanza, Ms. -- Let's see, is it
19 Blankemeyer?

20 VENIREPERSON BLANKEMEYER: Uh-huh.

21 THE COURT: Ms. Hall, and Mr. Newton? Am I seeing
22 right?

23 VENIREPERSON NEWTON: (Raises hand.)

24 THE COURT: Okay. And then Ms. Roden, Mr. Perry,
25 Mr. Costello.

1 Okay. Have I identified everyone who has a "yes" answer to
2 the question asking has any member of the panel at any time been
3 involved in a criminal matter that concerns yourself, any member
4 of your family, or a close friend, either as a defendant, a
5 witness, or a victim? If I've overlooked anyone, raise your
6 hand at this time.

7 (No response.)

8 THE COURT: Okay. I don't see any further hands, so
9 I'm going to go back and ask each of you who raised your hand to
10 stand and tell me why you did.

11 Ms. Murray.

12 VENIREPERSON MURRAY: I had a man expose himself in
13 our backyard to myself and some children, and the police were
14 called in and we -- there was never a trial or anything because
15 we could never find him, but I was brought in to give a
16 statement and all of that. So that's it.

17 THE COURT: Okay. Thank you.

18 Ms. Giorandino.

19 VENIREPERSON GIORANDINO: My brother is currently
20 incarcerated, and can I approach?

21 THE COURT: You want to come up here?

22 VENIREPERSON GIORANDINO: Yes.

23 THE COURT: Okay. That's fine.

24 (Bench conference with lead attorneys and Venireperson
25 Giorandino:)

1 THE COURT: Come on up here, all the way up here.
2 You've got to get closer.

3 VENIREPERSON GIORANDINO: My brother is currently
4 incarcerated --

5 THE COURT: Wait just a second.

6 VENIREPERSON GIORANDINO: My brother is incarcerated
7 currently.

8 THE COURT: What is it for?

9 VENIREPERSON GIORANDINO: Sexual misconduct against a
10 child.

11 THE COURT: With a child?

12 VENIREPERSON GIORANDINO: Uh-huh.

13 THE COURT: Okay. Is that something that happened
14 recently?

15 VENIREPERSON GIORANDINO: He's been in for three
16 years. He's got four more to go.

17 THE COURT: And what kind -- Is it in the state court
18 or the federal court?

19 VENIREPERSON GIORANDINO: I think it's state.

20 THE COURT: Okay.

21 VENIREPERSON GIORANDINO: It's in New York.

22 THE COURT: Do you know what age child was involved?

23 VENIREPERSON GIORANDINO: She was 12, I believe, at
24 the time.

25 THE COURT: Okay. You've heard the way we've

1 described this. Is there any similarity? Of course, I assume
2 that child was actually a 12-year-old child where here the
3 person was a make-believe 13-year-old girl.

4 VENIREPERSON GIORANDINO: Right. It's his
5 stepdaughter, my brother's stepdaughter, my niece.

6 THE COURT: Okay. Is there anything about that
7 experience that would cause you to feel like you might not be
8 able to be fair and impartial to both sides in this case?

9 VENIREPERSON GIORANDINO: I'm not sure. It's hard to
10 tell.

11 THE COURT: Do you have some uncertainty about that?

12 VENIREPERSON GIORANDINO: I'm sorry?

13 THE COURT: Are you uncertain as to whether you could
14 be fair and impartial?

15 VENIREPERSON GIORANDINO: I could be, yeah. I mean,
16 because I don't believe my brother should be where he is because
17 I don't believe the accusations.

18 THE COURT: Do you feel like he was unfairly treated?

19 VENIREPERSON GIORANDINO: Oh, absolutely, Your Honor.

20 THE COURT: Okay. What we're trying to do is get
21 jurors who can listen to the evidence in this case and see the
22 exhibits and decide the case strictly on the basis of those
23 things without being influenced by prior experiences. Do you
24 think you can do that?

25 VENIREPERSON GIORANDINO: I think so.

1 THE COURT: Okay. That's good. If you say you can,
2 I'm sure you can. Okay. You can go back and be seated. Thank
3 you.

4 VENIREPERSON GIORANDINO: Thank you.

5 (End of bench conference.)

6 THE COURT: Okay. Cindy Roden.

7 VENIREPERSON RODEN: Yes. My best friend, her brother
8 was murdered about seven years ago, and I was with her at the
9 trial, you know, with the family.

10 THE COURT: Okay. Thank you.

11 Mr. Perry.

12 THE COURT SECURITY OFFICER: Judge, we have a late one
13 on this back row.

14 VENIREPERSON CRESPO: I didn't raise my hand before,
15 Your Honor.

16 THE COURT: That's Ms. Crespo?

17 VENIREPERSON CRESPO: Yes.

18 THE COURT: Okay.

19 VENIREPERSON CRESPO: It was not -- I was not involved
20 in a case, but when I was 18 years old I was walking to college,
21 to the bus, to go to college, and a guy almost raped me. And I
22 fought with him, and he didn't have a weapon so he couldn't do
23 anything. And he got scared because I started screaming, and
24 two guys came to my rescue and we went to the police and I made
25 a report and they showed me his picture. He had raped a

1 19-year-old girl the week before on that alley. So that's as
2 far as it went.

3 THE COURT: Okay. Thank you.

4 Okay. Mr. Perry. Was somebody else there? That's
5 Mr. Miller?

6 VENIREPERSON MILLER: Yes. I apologize. I
7 misunderstood what you were asking there in the question. My
8 stepsister, her mother and stepfather were murdered, and we, as
9 a family, went through that trial. And it's been 25 years ago.

10 THE COURT: Okay. Thank you.

11 Mr. Perry.

12 VENIREPERSON PERRY: I was a character witness for one
13 of my soldiers, probably about 10 or 15 years ago.

14 THE COURT: What kind of trial was it?

15 VENIREPERSON GARZA: It was a -- he was accused of
16 robbery, and I had to go down to Alabama. At that time I lived
17 in North Carolina.

18 THE COURT: Okay. Thank you.

19 Mr. Costello, right next to you.

20 VENIREPERSON COSTELLO: Your Honor, could I approach
21 the bench, please?

22 THE COURT: Yes.

23 (Bench conference with lead attorneys and Venireperson
24 Costello:)

25 THE COURT: Hi. Wait until they get up here.

1 VENIREPERSON COSTELLO: Okay.

2 THE COURT: They've got to hear what you say.

3 VENIREPERSON COSTELLO: My daughter, a little over a
4 year ago, was arrested in interfering with evidence. And my
5 wife was arrested at the same time for interfering with the
6 arrest of my daughter. Now, the case was dismissed in court, so
7 just so you know that.

8 THE COURT: Can you give me a little bit of --

9 VENIREPERSON COSTELLO: The evidence was my daughter
10 had been living with a young man. He beat her up, and for -- I
11 don't know all the details -- that the police in Crowley, Texas,
12 arrested her, saying that she was interfering with evidence,
13 drugs. And she is not underage. We tested her for anything
14 else, and my wife was called by my daughter when she was getting
15 beat, arrived at the scene and lost it, and, you know, her
16 little girl was being arrested. So that's what happened. But
17 the case was tried and found there was no case.

18 THE COURT: Okay. Thank you very much.

19 VENIREPERSON COSTELLO: Okay.

20 (End of bench conference.)

21 THE COURT: Okay. Ms. Hunt.

22 VENIREPERSON HUNT: I need to approach the bench, too.

23 THE COURT: Did you want to come up here, Ms. Hunt?

24 VENIREPERSON HUNT: Yes, please.

25 (Bench conference with lead attorneys and Venireperson

1 Hunt:)

2 THE COURT: Hi. Wait until they get up here.

3 VENIREPERSON HUNT: Okay.

4 THE COURT: They've got to hear what you've got to
5 say.

6 VENIREPERSON HUNT: Okay. My daughter has two felony
7 convictions on drugs and theft and served jail time.

8 THE COURT: Is that through the federal court or the
9 state court?

10 VENIREPERSON HUNT: State. Dallas state jail. And if
11 it matters, I'm raising a 15-year-old grandchild who's on the
12 computer 24 hours a day.

13 THE COURT: Well, do you monitor the grandchild real
14 close?

15 VENIREPERSON HUNT: It's in my bedroom, yes. I'm up
16 with her.

17 THE COURT: Okay. Thank you.

18 (End of bench conference.)

19 THE COURT: Okay. Mr. Garza.

20 VENIREPERSON GARZA: May I approach?

21 THE COURT: Yes, you may.

22 (Bench conference with lead attorneys and Venireperson
23 Garza:)

24 THE COURT: Wait until they get up here. Come on up
25 here, but wait until they get here so they can hear what you

1 say. Okay. Go ahead.

2 VENIREPERSON GARZA: I have an ex-brother-in-law that
3 is serving time for murder because one of my nieces. . .

4 THE COURT: Who is serving the time?

5 VENIREPERSON GARZA: My ex-brother-in-law.

6 THE COURT: Oh, okay.

7 VENIREPERSON GARZA: In Fort Wayne, Indiana.

8 THE COURT: Okay.

9 VENIREPERSON GARZA: For murdering a guy that fondled
10 my niece, and I have four --

11 MR. LEWIS: What? I'm sorry, Judge, sir,

12 VENIREPERSON GARZA: Fondled, played with her.

13 MR. LEWIS: Oh, I'm sorry.

14 VENIREPERSON GARZA: I have four nephews that are
15 doing time also here in state prison.

16 THE COURT: On what kind of charges?

17 VENIREPERSON GARZA: On drug charges.

18 THE COURT: Okay. Anything else?

19 VENIREPERSON GARZA: No, that's it.

20 THE COURT: Where are they doing their time?

21 VENIREPERSON GARZA: One of them is in Jacksboro; the
22 other one is in Abilene. I don't know where the other two are.

23 THE COURT: Okay.

24 VENIREPERSON GARZA: I just moved back from Kansas two
25 years ago.

1 THE COURT: Okay.

2 VENIREPERSON GARZA: Because my mom was going through
3 all this stress.

4 THE COURT: She's had her hands full.

5 VENIREPERSON GARZA: Yes, she has.

6 THE COURT: Okay. Thank you.

7 (End of bench conference.)

8 THE COURT: Okay. Mr. Almanza.

9 VENIREPERSON ALMANZA: May I approach, Your Honor?

10 THE COURT: Yes.

11 (Bench conference with lead attorneys and Venireperson
12 Almanza:)

13 THE COURT: Hi. Wait until they get up here. They've
14 got to hear what you've got to say. Okay. Go ahead.

15 VENIREPERSON ALMANZA: Well, Your Honor, in 2002 I was
16 convicted of harassment by my ex-wife, and my nephew right now,
17 he's in jail accused of murder.

18 THE COURT: Okay. You were convicted for harassment.
19 Is that a misdemeanor?

20 VENIREPERSON ALMANZA: It was one day.

21 THE COURT: Okay. Thank you.

22 (End of bench conference.)

23 THE COURT: Ms. Sheen.

24 VENIREPERSON SHEEN: I have a brother who was
25 convicted of a third-degree felony for prescription fraud.

1 THE COURT: Okay. Thank you.

2 Ms. Askins.

3 VENIREPERSON ASKINS: May I approach?

4 THE COURT: Yes, you can come up here.

5 (Bench conference with lead attorneys and Venireperson
6 Askins:)

7 THE COURT: Hello.

8 VENIREPERSON ASKINS: Hello.

9 THE COURT: Wait until they get up here. They've got
10 to hear what you have to say. Okay. You can go ahead now.

11 VENIREPERSON ASKINS: My son spent ten months in
12 prison for a two-year DWI conviction.

13 THE COURT: Okay. Thank you.

14 MR. LEWIS: I'm sorry, ma'am. What was your name?

15 VENIREPERSON ASKINS: Pam Askins.

16 MR. LEWIS: Thank you.

17 (End of bench conference.)

18 THE COURT: Okay. Shirley Allen.

19 VENIREPERSON ALLEN: Your Honor, I believe it was a
20 civil suit I was a witness in. It was for someone had given a
21 \$14,000 hot check, and they were suing for a judgment against
22 them.

23 THE COURT: Okay. That probably would be a civil
24 suit. Thank you.

25 Ms. Blankemeyer.

1 VENIREPERSON BLANKEMEYER: May I approach?

2 (Bench conference with lead attorneys and Venireperson
3 Blankemeyer:)

4 THE COURT: Hi.

5 VENIREPERSON BLANKEMEYER: Hi.

6 THE COURT: Wait until they get up here. They've got
7 to hear what you've got to say. Okay.

8 VENIREPERSON BLANKEMEYER: When I was 19, I survived a
9 rape and beating, and I was a child. And he received a 150-year
10 sentence. And then again six years ago, I was raped again, but
11 the guy was no billed.

12 THE COURT: Okay. Thank you.

13 (Venireperson Blankemeyer leaves bench.)

14 MR. BURNS: What was that juror's name? I'm sorry.

15 THE COURT: She was raped twice.

16 MR. BURNS: No. I say her name.

17 THE COURT: Oh, I'm sorry.

18 THE COURT COORDINATOR: Ms. Blankemeyer.

19 THE COURT: Lisa Blankemeyer.

20 MR. BURNS: I'm sorry, Your Honor. Thank you.

21 (End of bench conference.)

22 THE COURT: Ms. Hall.

23 VENIREPERSON HALL: My son was charged with possession
24 of prescription drugs, and I think that's it.

25 THE COURT: Okay. Thank you.

1 Let's see, Mr. Newton. Was there one. . .

2 VENIREPERSON TAYLOR: I didn't respond.

3 THE COURT SECURITY OFFICER: She didn't raise her hand
4 earlier, Judge.

5 THE COURT: That's Ms. Taylor? Do you have a "yes"
6 answer to the --

7 VENIREPERSON TAYLOR: Yes, sir.

8 THE COURT: Okay. I'll call on you in just a minute.

9 VENIREPERSON NEWTON: Me first?

10 THE COURT: Yes, come on up, Mr. Newton.

11 (Bench conference with lead attorneys and Venireperson
12 Newton:)

13 THE COURT: Let me turn the microphone off. Okay. Go
14 ahead.

15 VENIREPERSON NEWTON: I have a friend that was in the
16 same situation as this case is in. And this was probably a year
17 ago in Fort Worth, so. . .

18 THE COURT: What, did something on --

19 VENIREPERSON NEWTON: Same deal, same set-up,
20 scenario.

21 THE COURT: By law enforcement officers pretending to
22 be a child?

23 VENIREPERSON NEWTON: Correct.

24 THE COURT: Did any legal activity result?

25 VENIREPERSON NEWTON: I don't know if he has done any

1 legal or not. They put him on probation, and he broke that, I
2 know that. So he was in jail for a little while. So I don't
3 know if they've done anything else with that.

4 THE COURT: Well, do you think the fact that you've
5 known somebody that had that situation, will that affect your
6 decision?

7 VENIREPERSON NEWTON: I mean, I have my opinions, but
8 I guess it depends on the evidence, you know, so. . .

9 THE COURT: Our goal is to get somebody who can --
10 have a jury made up of people who can listen to the evidence in
11 this case and decide this case on the basis of the evidence
12 without being influenced by something else. Can you do that?

13 VENIREPERSON NEWTON: I'm sure I'll be okay. Yeah,
14 sure.

15 THE COURT: Okay. Thank you.

16 (End of bench conference.)

17 THE COURT: Let's see, that was Deborah Taylor?

18 (Bench conference with lead attorneys and Venireperson
19 Taylor:)

20 THE COURT: Come on up. How are you this morning?

21 VENIREPERSON TAYLOR: Just fine.

22 THE COURT: Wait till these lawyers get up here.
23 They've got to hear. Go ahead.

24 VENIREPERSON TAYLOR: I forgot. When I was young, a
25 guy exposed himself walking home from Girl Scouts, me and a

1 friend. And, also, my niece was involved in a sexual
2 molestation by her grandfather last year.

3 THE COURT: Okay. Thank you.

4 (End of bench conference.)

5 THE COURT: Okay. I believe I've called on everyone
6 who had a "yes" answer to the question asking about criminal
7 matters. If I've overlooked anyone, raise your hand now so I
8 can call on you. If you don't raise your hand, I'll assume that
9 I've called on everyone who needed to be called on.

10 (No response.)

11 THE COURT: I don't see any further hands.

12 Is there anyone who has answered either of the last two
13 questions, the one about law enforcement agencies and the one
14 about criminal matters, is there anyone who would be so
15 influenced by the facts that you've related to me that you would
16 have any concern about being fair and impartial in this case?

17 Our goal is to have a jury in this case that is made up of
18 members who can decide this case on the basis of the evidence
19 and what happens here in the courtroom without being influenced
20 by something in your background. Is there anyone who has a
21 concern that you can't do that, whether it's based on some facts
22 you've told me about already or on any other fact? Is there
23 anyone who has a concern that you couldn't be completely fair
24 and impartial as a juror in this case and decide the case on the
25 basis of the evidence without being influenced by something in

1 your background?

2 (No response.)

3 THE COURT: If so, raise your hand if you have a
4 concern about that.

5 (No response.)

6 THE COURT: I don't see any hands on that.

7 Does anyone on the jury panel entertain the opinion that
8 the witnesses and evidence produced by the government are more
9 worthy of belief than the witnesses or evidence produced by the
10 defendant in any case, simply and solely because they're
11 presented by the government? If so, raise your hand.

12 (No response.)

13 THE COURT: I don't see any hands on that.

14 Would any of you give greater weight to the testimony of a
15 law enforcement officer than to that of another witness, simply
16 and solely because of his or her official capacity? If so,
17 raise your hand.

18 (No response.)

19 THE COURT: I don't see any hands on that.

20 Do any of you have any bias or prejudice, either in favor
21 of or against the government, in a case such as this? If so,
22 raise your hand.

23 (No response.)

24 THE COURT: Other than what I've been told by people
25 who came up to the microphone, and if you've already answered

1 this by coming up to the microphone you don't need to do it
2 again. Is there anyone who personally or through a family
3 member or close friend has ever used the Internet to try to
4 engage in some sort of sexual activity, and I don't know how to
5 define that. I'm not talking about the usual dating sort of
6 thing that goes on through the Internet. Anything remotely
7 similar to what the government has accused the defendant of in
8 this case, and I don't know how to define it any better than
9 that.

10 (Venireperson No. 36 raises hand.)

11 THE COURT: I see it, Fleather.

12 Is there anyone on the jury panel who has had a family
13 member involved in any such activity or a close friend involved
14 in any such activity or who, yourself, has been involved in any
15 such activity where the Internet has been used for some sexual
16 purpose? And I'm not asking those who have already told me
17 about that to tell me again. Only those who haven't already
18 disclosed it.

19 Now, I saw a hand way back there, but I believe you've
20 already told me what you had to tell, haven't you?

21 VENIREPERSON NEWTON: Yes.

22 THE COURT: That was --

23 VENIREPERSON NEWTON: Newton.

24 THE COURT: -- Mr. Newton. Were you the one who
25 raised your hand a minute ago?

1 VENIREPERSON NEWTON: Yes, sir.

2 THE COURT: Okay. You don't need to tell me again.

3 Is there anyone other than him who has a "yes" answer to
4 what I'm asking you about now? If so, raise your hand.

5 (No response.)

6 THE COURT: I don't see any further hands on that.

7 Now, in a criminal case the burden is on the government to
8 prove that the defendant is guilty beyond a reasonable doubt.
9 That's a different or higher standard than the preponderance of
10 the evidence standard which is applied in civil cases.

11 The law presumes a defendant to be innocent of crime; thus,
12 a defendant, although accused, begins the trial with a clean
13 slate with no evidence against him. And the law permits nothing
14 but legal evidence presented before the jury to be considered in
15 support of any charge against the accused. So the presumption
16 of innocence alone is sufficient to acquit a defendant unless
17 the jurors are satisfied beyond a reasonable doubt of the
18 defendant's guilt after careful and impartial consideration of
19 all the evidence in the case.

20 The law does not require the government to prove a
21 defendant's guilt beyond all possible doubt. The test is one of
22 reasonable doubt. A reasonable doubt is a doubt based upon
23 reason and common sense, the kind of doubt that would cause a
24 reasonable person to hesitate to act. Proof beyond a reasonable
25 doubt must, therefore, be proof of such a convincing character

1 that a reasonable person would not hesitate to rely and act upon
2 it in the most important of his or her own affairs.

3 A defendant is never to be convicted on mere suspicion or
4 conjecture. The burden is always upon the prosecution to prove
5 the defendant's guilt beyond a reasonable doubt. That burden
6 never shifts to a defendant, for the law never imposes upon a
7 defendant in a criminal case the burden or duty of calling any
8 witnesses or producing any evidence.

9 Now, is there anyone on the jury panel who cannot follow
10 the law concerning burden of proof or reasonable doubt as I've
11 explained it to you? If so, raise your hand.

12 (No response.)

13 THE COURT: I don't see any hands on that.

14 The defendant is brought to trial on the basis of an
15 indictment, as I've explained to you. The indictment is not
16 evidence. It is simply a method by which the government brings
17 a person to trial.

18 Now, is there anyone on the jury panel who feels that
19 simply because a defendant has been indicted, that that in
20 itself is some evidence of guilt? If so, raise your hand.

21 (No response.)

22 THE COURT: I don't see any hands on that.

23 Now, in a criminal case the defendant does not have to
24 testify. He is not required to present any evidence on his own
25 behalf. If the defendant elects not to testify, the jury may

1 not consider that for any purpose in deciding on his guilt.

2 Is there anyone on the jury panel who feels that if a
3 defendant fails to testify, that's some indication of his guilt?
4 If so, raise your hand.

5 (No response.)

6 THE COURT: I don't see any hands on that.

7 Now, each of you has a piece of paper called a juror
8 questionnaire. It calls upon you to give certain information.
9 Some of that information you've already provided in the response
10 to the questionnaire that you sent through the mail or e-mailed
11 back. However, this does call for some additional information.

12 I'm going to have each of you stand and give that
13 information, and the reason I am is to help the lawyers decide
14 on the exercise of their peremptory challenges. It will give
15 them some additional information to help them more intelligently
16 exercise those challenges. Plus, it would give the lawyers an
17 opportunity to see each of you somewhat isolated from the others
18 as you're speaking, standing up, a better chance to size you up,
19 so to speak.

20 So I'm going to start with Ms. Passmore. Now, with her,
21 I'm going to ask her questions instead of her just telling me
22 what it is the form calls for. And I'm doing that so the rest
23 of you can see exactly what I'm looking for. And then once I've
24 completed with Ms. Passmore, each of you will stand up, one
25 after the other, and give the information called for by the

1 form, bearing in mind what you learned from seeing Ms. Passmore
2 perform.

3 What is your full name?

4 VENIREPERSON PASSMORE: Wynoka Sue Passmore.

5 THE COURT: And what city do you live in?

6 VENIREPERSON PASSMORE: Arlington.

7 THE COURT: And what part of Arlington do you live in?

8 VENIREPERSON PASSMORE: Central.

9 THE COURT: Okay. This is for the benefit of all of
10 you. If you live in Arlington or the city of Fort Worth, in
11 addition to saying what city you live in, say where in the city.

12 If you live in an unincorporated area of some county, say
13 that, that you live in an unincorporated area of whatever county
14 it is, and also identify the town or city nearest to where you
15 live.

16 Okay. Are you married?

17 VENIREPERSON PASSMORE: Yes.

18 THE COURT: And what is the name of your husband?

19 VENIREPERSON PASSMORE: Roy Edward Passmore.

20 THE COURT: What is your occupation?

21 VENIREPERSON PASSMORE: College professor.

22 THE COURT: And what college is that?

23 VENIREPERSON PASSMORE: Texas Wesleyan University here
24 in Fort Worth.

25 THE COURT: And what do you teach?

1 VENIREPERSON PASSMORE: I teach educators, teach
2 teachers.

3 THE COURT: Okay. And have you had other occupations
4 in the past?

5 VENIREPERSON PASSMORE: Real estate part-time.

6 THE COURT: Okay. What is your spouse's occupation?

7 VENIREPERSON PASSMORE: He's retired.

8 THE COURT: What did he do before he retired?

9 VENIREPERSON PASSMORE: The last thing he did for ten
10 years was a manager of a bakery, a Tom Thumb bakery.

11 THE COURT: Have you ever served on a jury before?
12 And I'm not talking about being on a panel but actually serving
13 on a jury. I'm talking about either a petit jury, which is what
14 we're selecting now. A petit jury is the jury that participates
15 in a particular trial, whether it's a criminal case or a civil
16 case.

17 VENIREPERSON PASSMORE: No, I have not.

18 THE COURT: A grand jury, as you know, is a group of
19 persons who decides on whether to return indictments. Have you
20 not served on either kind?

21 VENIREPERSON PASSMORE: No, I have not.

22 THE COURT: Okay. Thank you. You can be seated.

23 Had she served on a jury, I would want to know whether it
24 was a petit jury or a grand jury. I would want to know if it
25 was in the state court or the federal court, and I would want to

1 know if it was a petit jury, whether it was a criminal case or a
2 civil case and whether the jury reached a verdict. I'm not
3 interested in knowing what the verdict was, just simply did the
4 jury reach a verdict. And if you have served on a jury more
5 than one time, whether it's a petit jury or a grand jury, I
6 would want all of that information about each time you've served
7 on a jury.

8 Okay. Ms. Loyd, can you give us the information called for
9 by the form?

10 VENIREPERSON LOYD: Yes, sir. Nancy Loyd. I live in
11 Mansfield, Texas. I am married to Kenneth Loyd. I work for the
12 Mansfield ISD.

13 THE COURT: What do you do there?

14 VENIREPERSON LOYD: Student nutrition manager.

15 THE COURT: Okay.

16 VENIREPERSON LOYD: My husband works for Vought
17 Aircraft Assembly in Dallas.

18 THE COURT: Have you had other jobs in the past?

19 VENIREPERSON LOYD: Pretty much domestic engineer.

20 THE COURT: Okay.

21 VENIREPERSON LOYD: And, no, I have not served on any
22 jury.

23 THE COURT: Okay. Thank you.

24 Mr. Lemley.

25 VENIREPERSON LEMLEY: Robert Terry Lemley. I live in

1 southwest Arlington. I am married. My wife is Paula Jo, and
2 she is a schoolteacher. I work at Daskocil Manufacturing as the
3 customer service and traffic manager. And I have served on a
4 jury before, a state jury. It was a petit jury, and it was a
5 criminal case. And we were sequestered, and the case was
6 settled prior to going to trial.

7 THE COURT: Okay. Thank you.

8 Ms. Murray.

9 VENIREPERSON MURRAY: My name is Susan Murray. I live
10 in Colleyville. I am married, and my husband's name is Mike.
11 My occupation is I'm a grandmother, so I do everything. And I
12 was a schoolteacher at one point before my children were born.
13 My husband is the vice president of a company called Davaco,
14 Incorporated, in Dallas, and I have never been on a jury.

15 THE COURT: Okay. Thank you.

16 Mr. Schweitzer.

17 VENIREPERSON SCHWEITZER: Yes, sir. My name is David
18 Harold Schweitzer. I live in Millsap, Texas, or just outside of
19 Millsap, Texas, about a mile out in Parker County. I'm married.
20 My spouse's name is Melissa Ann Donley. My occupation currently
21 is flight test engineering at Lockheed Martin. I've been in
22 flight tests since 1968 and spent ten years as an Air Force
23 pilot.

24 My spouse's occupation, she was an executive director of
25 CASA, Court Appointed Special Advocates, for kids. She's

1 currently finished a degree at Tarleton, and she's looking for
2 work in the local area.

3 I have been on a jury. It was state, a petit jury,
4 criminal, and we did reach a verdict.

5 THE COURT: Okay. Thank you.

6 Ms. Martinez.

7 VENIREPERSON MARTINEZ: Yes. My name is Sandra
8 Martinez. I do live in south Arlington, and I'm single. And my
9 occupation is systems engineer in L-3 Communications. And I
10 have never done any prior service for jury.

11 THE COURT: Okay. Who do you work for?

12 VENIREPERSON MARTINEZ: L-3 Communications.

13 THE COURT: Okay. Thank you.

14 Ms. Sheen.

15 VENIREPERSON SHEEN: I am Janis Sue Sheen. I live in
16 Grapevine. I am single. I'm a flight attendant with American
17 Airlines. And I have served on two state, petit juries for
18 criminal cases.

19 THE COURT: Did you reach a verdict both times?

20 VENIREPERSON SHEEN: Yes, we did.

21 THE COURT: Okay. Thank you.

22 Ms. Askins.

23 VENIREPERSON ASKINS: My name is Pamela Lynn Askins.
24 I live in White Settlement, Texas, which is west Fort Worth. I
25 am divorced. I work at Texas Exchange Bank for 25 years. I'm

1 assistant vice president. And I have not served on a jury.

2 THE COURT: Okay. Thank you.

3 Ms. Allen.

4 VENIREPERSON ALLEN: My name is Shirley Allen. I am
5 married. I live in Aurora, Texas, or actually unincorporated
6 outside of Aurora. I was a banker for 17 years and owned my own
7 construction company. My spouse is currently in construction.
8 I have served on the grand jury and the petit jury, and in the
9 criminal case we did return a verdict.

10 THE COURT: Okay. Thank you.

11 Ms. Green.

12 VENIREPERSON GREEN: Gretchen Green. I live in
13 Grapevine. I'm married. My husband is Jack Green. I'm a
14 registered nurse. I work for Texas Health Resources. My
15 husband works for Rad Collins (phonetics) as a database
16 administrator, and I've never been selected for a jury.

17 THE COURT: Okay. Thank you.

18 Mr. Bays.

19 VENIREPERSON BAYS: My name is Kent Bays. I live in
20 northeast Arlington. I'm married to my wife Diane. I'm an
21 airline pilot for American Airlines. I fly international,
22 captain. I've also been an Air Force pilot and a stockbroker
23 for Merrill Lynch. My wife is also a flight attendant for
24 American Airlines. I have served the State of Texas in a petit
25 jury. We reached a verdict in a criminal case.

1 THE COURT: Okay. Thank you.

2 Mr. Puente.

3 VENIREPERSON PUENTE: It's Martin Puente. I live in
4 Crowley. I am married. Work for AT&T. My wife is an office
5 clerk. No jury.

6 THE COURT: Okay. Thank you.

7 Ms. Summerhill.

8 VENIREPERSON SUMMERHILL: I'm April Summerhill. I
9 live in Aledo. Married to Jerry Summerhill. He works at
10 Lockheed Martin. I'm a postal employee, city carrier. And I
11 have not served on any jury.

12 THE COURT: Okay. Thank you.

13 Mr. Oneil.

14 VENIREPERSON ONEIL: My name is Craig Jay Oneil. I
15 live in Keller. I'm married. My wife's name is Angela. I am a
16 licensed plumber for TD Industries. My wife is a secretary for
17 Cochran Financial Group. I've never served on a jury.

18 THE COURT: Okay. Thank you.

19 Jan Hall.

20 VENIREPERSON HALL: My name is Laurie Jan Hall. I
21 live on the west side of Fort Worth. I'm married to John Hall.
22 My occupation is teacher, elementary school. My husband is
23 self-employed. He has Export Oil and Gas, which is a leasing
24 company. I have served on a civil jury, petit jury.

25 THE COURT: Okay. How many times? Several?

1 VENIREPERSON HALL: No. Just once.

2 THE COURT: Oh, okay. I misunderstood you. Did the
3 jury reach a verdict?

4 VENIREPERSON HALL: Yes, we did.

5 THE COURT: Okay. Thank you.

6 Ms. Blankemeyer.

7 VENIREPERSON BLANKEMEYER: My name is Lisa
8 Blankemeyer. I live in Keller. I'm single. I was a
9 cosmetologist 25 years. Now I run a restaurant, Manny G's, and
10 I'm manager there. And I have never served on a jury.

11 THE COURT: Okay. Thank you.

12 Mr. Almanza.

13 VENIREPERSON ALMANZA: My name is Manual Almanza. I
14 live on the west side of Fort Worth. I'm married. My wife is
15 Susanna Lopez Almanza. I work for New Breed as a cell phone
16 refurbisher. My wife cleans houses and offices. I have been on
17 a state, petit, criminal jury, and we did reach a verdict.

18 THE COURT: Thank you.

19 Mr. Garza.

20 VENIREPERSON GARZA: My name is Adrian Garza. I live
21 in Mineral Wells. I'm married. I work for Devon Energy as a
22 gas plant operator/analyzer. My wife, she's a home wife. And I
23 never have served on the jury.

24 THE COURT: Okay. Thank you.

25 Diana Russell.

1 VENIREPERSON RUSSELL: Yes. I'm Diana Russell. I
2 live in Mansfield, Texas. My husband's name is Rad Russell.
3 I'm a prekindergarten teacher for Arlington ISD. My husband's
4 occupation is owning a building automation company, and I have
5 served on state juries, petit for criminal and civil, and we did
6 reach a verdict.

7 THE COURT: Okay. Thank you.
8 Brenda Hunt.

9 VENIREPERSON HUNT: Brenda Kay Hunt. I live in North
10 Richland Hills. I am single. Retired from the government
11 Postal Service. I've served on two state, petit juries. Yes,
12 we did reach a verdict both times.

13 THE COURT: Thank you.
14 Lucy Hale.

15 VENIREPERSON HALE: My name is Lucy Maria Hale. I
16 live in central Arlington. I am married. My husband's name is
17 Christopher Carseano (phonetics). I'm the education coordinator
18 for the Dallas Zoo and the Dallas Aquarium at Fair Park, which
19 are part of the City of Dallas's Parks and Recreation
20 Department. Prior to that, I worked for the Fort Worth Museum
21 of Science and History, the Needham Public School System up in
22 Massachusetts, and the Boston Museum of Science. My husband is
23 a coordinator for Tarrant County College and a part-time acting
24 teacher, and I have never served on a jury.

25 THE COURT: Thank you.

1 Ms. Giorandino.

2 VENIREPERSON GIORANDINO: Christine Ann Giorandino.
3 I'm an analyst with American Airlines. I'm sorry. I live in
4 north Arlington.

5 THE COURT: Can you hold that up -- Why don't you
6 start over again and hold it up in front of you.

7 VENIREPERSON GIORANDINO: Is that better? Okay.
8 Christine Ann Giorandino. I live in north Arlington. I'm an
9 analyst with American Airlines. I am married to William
10 Decicco. He is an auto mechanic, and I have never served on a
11 jury.

12 THE COURT: Okay. Thank you.

13 Mr. Johnson.

14 VENIREPERSON JOHNSON: My name is Gil Johnson, and I
15 live in north Arlington. My wife is Martha Johnson, and I work
16 for Siemens. I'm a fire technician, and my wife is unemployed
17 right now. And I haven't served on a jury.

18 THE COURT: Okay. Thank you.

19 Joy Allmon.

20 VENIREPERSON ALLMON: Yes. My name is Joy Ann Allmon.
21 I live in Weatherford, Texas. I am married. My husband's name
22 is Ricky. I currently work at Lockheed Martin as a shop clerk,
23 and my husband is retired from Lockheed Martin. And previously
24 was -- did secretarial work. And I did have a civil case. I
25 believe it was -- It's been so long ago, I don't remember. And

1 we did reach a decision.

2 THE COURT: Okay. Thank you.

3 Nancy Gonzalez.

4 VENIREPERSON GONZALEZ: Yes. My name is Nancy
5 Gonzalez. I live in Euless. I am married. My husband's name
6 is Thomas Gonzalez. I'm an airport agent with American
7 Airlines, and my husband is an aircraft mechanic with American
8 Airlines. And I have never served on a jury.

9 THE COURT: Thank you.

10 Brian Miller.

11 VENIREPERSON MILLER: My name is Brian Neil Miller. I
12 live in Roanoke, Texas. I am married. Her name is Tena Miller.
13 I manage a team of bond traders for DT Ameritrade. My wife is a
14 401(k) relationship manager with Fidelity, and I have never
15 served on a jury.

16 THE COURT: Okay. Thank you.

17 Cindy Roden.

18 VENIREPERSON RODEN: My name is Cindy Roden. I live
19 in Euless, Texas. I am not married. I work for the Federal
20 Aviation Administration as a regional operations officer. I've
21 worked there for three years. Prior to that, I've been an air
22 traffic control specialist for 26 years. I have served on two
23 state, petit juries, and we were able to reach a verdict on
24 both.

25 THE COURT: Okay. Thank you.

1 Ms. Horvath.

2 VENIREPERSON HORVATH: My name is Mary Horvath. I
3 live in Keller, Texas, northeast Tarrant County. I'm divorced.
4 I'm a gardener for the City of Fort Worth Parks and Community
5 Service Department. And I have served on two state, jury --
6 petit juries, one civil, one criminal.

7 THE COURT: Okay. Did you reach a verdict in each
8 one?

9 VENIREPERSON HORVATH: Yes. Yes, both times.

10 THE COURT: Okay. Thank you.

11 Benjamin Perry.

12 VENIREPERSON PERRY: Yes. My name is Benjamin Perry,
13 III. I live in Grapevine, Texas. I am married to Timba
14 (phonetics) Perry. My occupation is pharmaceutical sales. My
15 wife's occupation is dentistry. My prior occupations was
16 product line manager with Corning, and I also worked in the
17 military for ten years. My spouse has always been a dentist.
18 I've never been on a jury before.

19 THE COURT: Okay. Thank you.

20 Mr. Costello.

21 VENIREPERSON COSTELLO: Richard William Costello. I
22 am married. My wife's name is Sally. We live in Mansfield,
23 Texas. I am a salesman for a company called Colony Group. My
24 wife is a realtor. And I have not served any jury duties.

25 THE COURT: Thank you.

1 Janice Atchley.

2 VENIREPERSON ATCHLEY: Yes. My name is Janice
3 Atchley. I live in Bedford, Texas. I am a hairstylist. My
4 husband is Jimmy Atchley, and he works for Allstate Insurance.
5 I have been on two petit juries. One was settled when we were
6 deliberating, and the other, we did find a verdict.

7 THE COURT: Okay. Thank you.

8 Charles Gilchrist.

9 VENIREPERSON GILCHRIST: Charles Wayne Gilchrist. I
10 live in Weatherford, Texas. My wife's name is Trina. She's a
11 full-time housewife, raising our kids. I own Southwest Ford
12 Mitsubishi and Suzuki in Weatherford. And I have not served on
13 a jury.

14 THE COURT: Okay. Thank you.

15 Mr. Borrego.

16 VENIREPERSON BORREGO: Yes. My name is Antonio
17 Borrego. I work for the Federal Aviation Administration as a
18 manager. My wife's name is Sylvia. She works there as well. I
19 have not served on a jury before.

20 THE COURT: Okay. Thank you.

21 I believe we have had enough people give the information
22 that we can select a jury from. So, Ms. Taylor, I'm not going
23 to have you or the others give that information. However, there
24 is some possibility that we'll have to come back to those who
25 haven't given the information, so from this point forward

1 continue to participate as if you had given the information. In
2 other words, respond to questions, and so on, as if you had. So
3 if we have to come back to you, we won't have to do that all
4 over again.

5 Now, my information is that this case probably will be
6 concluded today, at least the evidence will be concluded today,
7 which means the jury will probably start deliberating today and
8 could well reach a verdict today. I don't know. I can't
9 anticipate how long it would take a jury to reach a verdict.

10 If it goes beyond today, I'm satisfied that it would be
11 completed tomorrow. Now, our work hours normally are that we
12 take about a 15-minute recess sometime about mid-morning and
13 about a 15-minute recess sometime about mid-afternoon. We're
14 not scientific about when we take those recesses because we try
15 to finish up the project we're on before we do that.
16 As a matter of fact, I'm going to give you a recess in just a
17 few minutes, which will be the morning recess.

18 We normally take a one-hour lunch recess, and we're not
19 very scientific about when we start that. It depends on where
20 we are with the witnesses, and so on. We try to keep the trial
21 flowing as much as we can without interrupting events by
22 recesses, lunch, or otherwise.

23 We normally -- I think the evidence will be completed in
24 this case before the end of the business day.

25 Is that probably the way it's going to work out?

1 MR. LEWIS: I believe so, sir, yes.

2 THE COURT: Do you agree to that, Mr. Burns?

3 MR. BURNS: Yes, Your Honor.

4 THE COURT: Which means that the jury will start
5 deliberating before the end of the business day, probably. If
6 the jury wants to continue to deliberate until they reach a
7 verdict, I'll leave that up to the jury, if the deliberation
8 carries beyond the end of the normal business day. It's
9 conceivable that you could be here 7:00 or 8:00 o'clock if the
10 jury wants to keep deliberating until they reach a verdict. I
11 can't predict that, but that is a possibility.

12 Now, is there anyone who has a problem with the schedule as
13 I've outlined it? Now, if we come back tomorrow, if it turns
14 out the jury wants to come back and deliberate some more
15 tomorrow morning, we'd probably come back at 9:00 o'clock. Is
16 there anyone who has a problem with the schedule I've outlined?
17 If so, let me know now so can deal with it.

18 (No response.)

19 THE COURT: Okay. I don't see any hands indicating
20 there's a problem.

21 Now, I'm going to let an attorney for each side ask some
22 additional questions if the attorney wants to. There's no need
23 to ask any more questions unless the attorney feels a need to do
24 it.

25 If any more questions are asked, they will not be

1 argumentative in nature, and the lawyers know that this is not
2 the time to make statements. It's simply the time to ask
3 questions that are not calculated to get the same information
4 I've asked for.

5 Does the government have any questions it wants to ask?

6 MR. LEWIS: Just a couple, sir.

7 THE COURT: You do?

8 MR. LEWIS: Just a couple, sir, yes.

9 THE COURT: Okay. Go ahead.

10 MR. LEWIS: Thank you, Judge.

11 For any reason, religious, moral, any other reason,
12 ethical, does anyone not feel that they can sit in judgment of
13 another person?

14 THE COURT: If so, raise your hand.

15 MR. LEWIS: Oh, I'm sorry. If so, raise your hands.

16 (No response.)

17 THE COURT: I don't see any hands on that.

18 MR. LEWIS: Does anyone believe here that there is a
19 constitutional right to use words to entice a child to have sex
20 with an adult? If so, raise your hand.

21 THE COURT: If so, raise your hand.

22 (No response.)

23 THE COURT: I don't see any hands on that.

24 MR. LEWIS: I see no hands.

25 And last question: Does everyone understand that it's no

1 excuse not to serve just because the subject matter is difficult
2 or distasteful? If so, raise your hand.

3 (No response.)

4 THE COURT: No hands. Okay. You can be seated.

5 Does the defendant have any questions?

6 MR. BURNS: Just a couple questions, if I may.

7 THE COURT: Okay.

8 MR. BURNS: Ladies and gentlemen, knowing the nature
9 of this prosecution, is there anybody here, for any reason, that
10 you feel that you could not be fair and impartial to the defense
11 in the case where the allegations are solicitation online of a
12 minor? Background, family members, whatever, anything at all,
13 do you feel that you couldn't be fair and impartial?

14 THE COURT: If so, raise your hand.

15 (No response.)

16 THE COURT: I don't see any hands on that.

17 MR. BURNS: I believe that's all I've got, Your Honor.

18 THE COURT: Okay. Let me have the attorneys come up
19 here a minute. Just one on each side.

20 (Bench conference with lead attorneys:)

21 THE COURT: Okay. The government has its usual six
22 strikes; the defendant, his usual ten. That will take you down
23 through No. 28. That's where you'll exercise your main strikes,
24 Mary Horvath. I'm going to have one alternate, and the
25 alternate will be selected from 29, 30, or 31 on the list.

1 MR. LEWIS: And that's ending with Ms. Atchley, sir?

2 THE COURT: Starts with Perry and ends with Atchley.

3 MR. LEWIS: Thank you, sir.

4 THE COURT: And you have one strike, each of you, has
5 one strike against 29, 30, or 31.

6 MR. LEWIS: Yes, sir.

7 THE COURT: I'll give you ten minutes to exercise your
8 strikes. You'll do it by marking through the names and then
9 signing your list and dating it. And give it to Fleather ten
10 minutes from now. I'm going to give the jury a 15-minute
11 recess. That gives y'all time to do your thing and her time to
12 make up the list before we come back in.

13 (End of bench conference.)

14 THE COURT: The lawyers at this time are going down
15 the list and determining which of the names to challenge. In
16 other words, the names of people they want stricken off. While
17 they're doing that -- And once that's done, then the courtroom
18 deputy has to prepare the list of the people that will actually
19 serve on the jury. It's the first 12 -- the first 13. We have
20 an alternate. So it will be the first 13 left when you take out
21 those that have been marked off. So I'm going to give you a
22 15-minute recess while all that's being done. If you would,
23 at the end of 15 minutes come back and be seated where you are
24 now.

25 (Court in recess, 11:05 a.m. until 11:25 a.m.)

1 THE COURT: Okay. As your name is called, come forward
2 to be seated in the jury box. Nancy Loyd, Robert Lemley, Sandra
3 Martinez, Janis Sheen, Pamela Askins, Gretchen Green, Martin
4 Puente, Joy Allmon, Gil Johnson, Lucy Hale, Jan Hall, April
5 Summerhill, Benjamin Perry.

6 Okay. The court coordinator is going to call the names of
7 those who should be in the jury box, and as your name is called,
8 raise your right hand.

9 THE COURT COORDINATOR: Nancy Loyd, Robert Lemley,
10 Sandra Martinez, Janis Sheen, Pamela Askins, Gretchen Green,
11 Martin Puente, Joy Allmon, Gil Johnson, Lucy Hale, Jan Hall,
12 April Summerhill, Benjamin Perry.

13 THE COURT: Is the government satisfied we've seated
14 the proper persons in the jury box?

15 MR. LEWIS: It is, Judge.

16 THE COURT: Is the defendant satisfied that we've
17 seated the proper persons in the jury box?

18 MR. BURNS: Yes, Your Honor.

19 THE COURT: Okay. Now that the jury has been
20 selected, the remaining members of the panel will be excused.
21 You'll still have to call that Code-A-Phone starting today.
22 Thank you very much for being here. Without you being here, we
23 couldn't have selected the jury. So you have played an
24 important role today, but you're excused at this time.

25 (Rest of jury panel leaves, 11:28 a.m.)

1 THE COURT: I'll ask those in the jury box to stand
2 and raise your right hands to be sworn as jurors in this
3 particular case.

4 (The jury is sworn.)

5 THE COURT: Okay. Y'all can be seated. Now that
6 you've been selected and sworn, I'm going to give you some
7 preliminary instructions that will guide you during the evidence
8 part of the trial, the things that happen between now and the
9 time you start deliberating.

10 Once we reach the point in the trial where all the evidence
11 has been received and the lawyers have made their final
12 summations, I'll give you some rather lengthy instructions that
13 will guide you in your deliberations. This is not intended to
14 be those instructions. These instructions, though, are
15 important and should be taken into account throughout the trial.

16 It will be your duty to find from the evidence what the
17 facts are. You, and you alone, are the judges of the facts.
18 You will then have to apply to those facts the law as the Court
19 will give it to you. You must follow the law whether you agree
20 with it or not.

21 Now, nothing the Court may say or do during the course of
22 the trial is intended to indicate, nor should it be taken by you
23 as indicating, what your verdict should be.

24 The evidence from which you will find the facts will
25 consist of the testimony of witnesses, documents, and other

1 things received into the record as exhibits and any facts the
2 lawyers agree or stipulate to and any facts of which the Court
3 takes judicial notice, if that occurs.

4 Certain things are not evidence and must not be considered
5 by you. For example, statements, arguments, and questions by
6 lawyers do not constitute evidence. Objections to questions are
7 not evidence. Lawyers have an obligation to their client to
8 make an objection when they believe evidence being offered is
9 improper under the rules of evidence, and you should not be
10 influenced by the wording of the objection or by the ruling the
11 Court makes on an objection. If an objection is sustained,
12 ignore the question. If the objection is overruled, treat the
13 answer like any other.

14 Anything you may have seen or heard outside the courtroom
15 is not evidence. You are to decide the case solely on the
16 evidence presented here in the courtroom and what you see in the
17 courtroom, what happens here in the courtroom.

18 Now, there are two different kinds of evidence: direct and
19 circumstantial. Direct evidence is direct proof of a fact, such
20 as the testimony of an eyewitness. Somebody who actually saw
21 something happen. Circumstantial evidence is proof of a set of
22 facts from which you may infer or conclude that some other fact
23 exists. And an example I give of that that may be timely: If
24 you went to bed at night and there wasn't any snow on the
25 ground, but you woke up in the morning and it was covered with

1 snow, then that would be circumstantial evidence that it snowed
2 during the night even if you didn't see it. And I'll give you
3 some further instructions on that matter as well as others at
4 the end of the case, but bear in mind that you can consider in
5 deciding the case both direct evidence as well as circumstantial
6 evidence.

7 Now, it will be up to you to decide which witnesses to
8 believe and which witnesses not to believe and how much of any
9 witness's testimony to accept or reject. I'll give you some
10 guidelines later for determining the credibility of witnesses.

11 Now, as you know by now, this is a criminal case, and there
12 are basic rules about a criminal case that you must keep in
13 mind. And I'm repeating what I told the panel earlier, but it's
14 important enough that I am going to review it again.

15 First, the defendant is presumed innocent until proven
16 guilty. The indictment against the defendant brought by the
17 government is only an accusation. It's nothing more. It is not
18 proof of guilt or anything else. The defendant, therefore,
19 starts out with a clean slate.

20 Second, the burden of proof is on the government until the
21 very end of the case. The defendant has no burden to prove his
22 innocence or to present any evidence or to testify.

23 Since the defendant has the right to remain silent, the law
24 prohibits the jury in arriving at its verdict from considering
25 that the defendant may not have testified if he chooses not to.

1 The government must prove the defendant's guilt beyond a
2 reasonable doubt, and I'll give you some further instructions on
3 that point later, but bear in mind that in that respect a
4 criminal case is different from a civil case.

5 Now, during the trial you are not to discuss the case with
6 anyone or permit anyone to discuss it with you. We don't want
7 you to discuss the case with people who are not on the jury
8 because we don't want you to be influenced by what somebody else
9 might think about the case. In other words, you're to decide
10 the case collectively as a jury without being influenced by
11 anybody else's input.

12 The reason we prohibit you from discussing it with each
13 other until you start deliberating is we've found that jurors
14 tend to start forming opinions about a case when they discuss it
15 -- the case with each other. And we don't want you to have an
16 opinion about the right and wrong of it until you've heard all
17 the evidence and you've heard all the arguments. And, of
18 course, you do discuss it with each other when you're
19 deliberating on the verdict, but that's the reason we prohibit
20 the discussion, even amongst yourselves, before then.

21 Do not read or listen to anything touching on the case in
22 any way. I don't know that there would be any news media
23 coverage that you would be exposed to before you reach a
24 verdict. If there happened to be, shut it out. Don't pay any
25 attention to it. Don't listen to it if it's a news report or

1 read it if it's in the newspaper. And I can't emphasize more
2 than should be emphasized that this case is to be decided on the
3 basis of what you hear here and what happens in the courtroom as
4 opposed to being influenced by something outside.

5 Do not try to make any investigation about the case. Do
6 not conduct research, such as looking up a dictionary definition
7 of a word, during the course of the trial. If you need to
8 understand the meaning of something, we'll provide that
9 definition in the instructions. You're to be guided in your
10 deliberations and decisions by what you learn in the courtroom
11 during the trial, of course, taking into account the legal
12 instructions I give you.

13 Now, as far as the lawyers are concerned and those others
14 connected with the case, don't have any communication at all
15 with those people during the trial. If you pass one of them in
16 the hall, make out like he or she doesn't exist. They'll
17 understand why you don't speak to them and presumably they won't
18 speak to you. If there were any communication between any
19 persons like that and anyone on the jury, it could be
20 misinterpreted and somebody could reach the conclusion that
21 there had been an improper communication. So the best way to
22 avoid that is simply to have none.

23 And I again emphasize: Keep an open mind until you start
24 your deliberations at the end of the case.

25 I don't allow jurors to take notes during the course of the

1 trial. I have more than one reason for that, but the main
2 reason is I think note taking can be distracting, not only to
3 the person taking the notes, but to the persons around the note
4 taker. It's much more important, in my view, that everybody on
5 the jury pay very close attention to what's going on in the
6 courtroom, and in particular when a witness is testifying, to
7 pay close attention to the witness.

8 You form opinions day in and day out whether the people
9 you're talking to or conducting business with you are being
10 honest with you or candid with you by the way they react when
11 you have discussions with them, their facial expressions, how
12 long it takes them to respond to your questions, and that sort
13 of thing. Those are things you instinctively use to judge the
14 honesty and integrity and credibility of the people you are
15 dealing with, and you can use those same skills in evaluating
16 whether a witness is telling the truth and maybe when a witness
17 is fudging a little bit.

18 And I think it's much more important for you to pay
19 attention to what's going on in the courtroom so you can make
20 those evaluations than to try to take notes. And I think you'll
21 be surprised how well your collective memory will serve you as
22 to what the evidence is without the need to take notes.

23 Now, during the trial I may be called upon to rule on
24 motions or objections made by lawyers. You should not infer
25 from any ruling I may make that I have any opinions on the

1 merits of the case favoring one side or another. If I sustain
2 an objection to a question that goes unanswered by the witness,
3 you should not speculate on what the answer might have been if
4 the witness had answered it. Nor should you draw any inference
5 from the question itself.

6 Now, during the trial it may be necessary for me to confer
7 with the lawyers out of your hearing concerning legal matters.
8 If that occurs, we'll try to do it up here, with the lawyers
9 coming up here, with me turning the microphone off. If I see
10 that it's going to take a while, I might ask you to go back to
11 the jury room while we discuss whatever it is. You can be
12 assured that when we do things like that, we're not discussing
13 things that are of concern to you but will simply be legal
14 matters.

15 Now, the more formal parts of the trial are going to start
16 as soon as I get through talking, and I'm going to take you step
17 by step what happens during a trial so you'll know what to
18 expect next. The first thing that will happen when I get
19 through talking is the defendant will stand and the attorney for
20 the government will read the wording of the indictment, and the
21 defendant will enter a formal plea of guilty or not guilty.
22 Presumably it will be not guilty because that's what his plea
23 has thus far been.

24 After that occurs, then each side is given an opportunity
25 to make an opening statement. It's limited to five minutes per

1 side, and neither side has to give an opening statement. In an
2 opening statement is not given by one side or another, don't
3 attach any significance to it other than the lawyer concluded it
4 was not necessary or was inappropriate.

5 The defendant has the right, if he wants to, to withhold
6 making an opening statement at the beginning, and for his lawyer
7 to make the defendant's statement after the government's
8 evidence is concluded. So if the defendant says, through his
9 attorney, he's reserving the right to make an opening statement
10 later, that's what that will mean.

11 The opening statement is not an argument of any kind. It's
12 simply a dispassionate statement of what the lawyer expects the
13 evidence to prove from his client's standpoint. After each side
14 has made an opening statement -- And by the way, the government
15 goes first. It makes the opening statement first, and when we
16 start the evidence the government puts on the evidence first.
17 And when we have the final summations, the government's lawyer
18 goes first. That's because the government has the burden of
19 proof. The government has to prove something, and in order to
20 do it in a logical sequence, the government's lawyer always has
21 to be the first to make a move.

22 After the opening statements have been completed, then the
23 government's lawyer will start offering evidence in its case.
24 It will be calling witnesses and offering exhibits.

25 After the attorney for the government has questioned a

1 witness, then, of course, the attorney for the defendant has the
2 right to cross-examine that witness. It's not like you see on
3 TV because the scope of the cross-examination is limited to the
4 subject of the direct examination. We don't allow argumentative
5 questions, we don't allow the lawyers to argue with witnesses,
6 and that sort of thing.

7 After the government has completed its evidence, then its
8 attorney will announce that the government rests. That will
9 mean that the defendant has an opportunity to present evidence,
10 if the defendant wants to. And then if the defendant has
11 reserved the right to make an opening statement, that's when the
12 defendant would make an opening statement.

13 Then after the defendant has completed the defendant's
14 evidence, if the defendant offers any evidence, then the
15 government would have a chance, through its attorney, to make a
16 rebuttal, offer evidence that would respond to the defendant's
17 evidence. That usually does not take long if it occurs.

18 Once that happens, then each side will have a few minutes
19 to make a final summation, and it's really an argument at that
20 point in time because the lawyers are reasoning with you as to
21 why they think you should render a verdict consistent with the
22 lawyer's client's position.

23 After the opening statements -- I mean, the final
24 statements have been made, the closing arguments I'll call them,
25 then I'll give you the legal instructions that will guide your

1 deliberations, and then you'll start your deliberations.

2 (End of voir dire examination, 11:38 a.m.)

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4 CERTIFICATE

5 I certify that the foregoing is a correct transcript from
6 the record of proceedings in the above-entitled matter. I
7 further certify that the transcript fees format comply with
those prescribed by the Court and the Judicial Conference of the
United States.

8

9 s/Eileen M. Brewer
Eileen M. Brewer
10 Official Court Reporter
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September 14, 2009
Date